

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JAMES GILLIAM, Individually And On Behalf)
Of All Others Similarly Situated,)

Plaintiff,)

v.)

FIDELITY MANAGEMENT & RESEARCH)
COMPANY, et al.,)

Defendants.)

No. 04-cv-11600-NG

BOGATIN FAMILY TRUST, Individually And)
On Behalf Of All Others Similarly Situated,)

Plaintiff,)

v.)

FIDELITY MANAGEMENT & RESEARCH)
COMPANY, et al.,)

Defendants.)

No. 04-cv-11642-NG

CYNTHIA A. BENNETT and GUY E.)
MILLER,)

Plaintiffs,)

v.)

FIDELITY MANAGEMENT & RESEARCH)
COMPANY, et al.,)

Defendants.)

No. 04-cv-11651-MLW

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GHASSAN J. AWALI et al. Individually And)
On Behalf Of All Others Similarly Situated,)

Plaintiff,)

v.)

FIDELITY MANAGEMENT & RESEARCH)
COMPANY, et al.,)

Defendants.)

No. 04-cv-11709-MLW

WILLIAM S. GROESCHEL, Individually And)
On Behalf Of All Others Similarly Situated,)

Plaintiff,)

v.)

FIDELITY MANAGEMENT & RESEARCH)
COMPANY, et al.,)

Defendants.)

No. 04-cv-11735-GAO

NANCY HAUGEN, MICHAEL F. MAGNAN,)
KAREN L. MAGNAN, ROSE M.)
IANNACCONI, PRESLEY C. PHILLIPS,)
ANDREA M. PHILLIPS, and CINDY)
SCHURGIN, for the use and benefit of)
FIDELITY MAGELLAN and FIDELITY)
CONTRAFUND,)

Plaintiffs,)

v.)

FIDELITY MANAGEMENT & RESEARCH)
COMPANY and FMR CO., INC.,)

Defendants.)

No. 04-cv-11756-MLW

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DAVID O. FALLERT, Individually And On)	
Behalf Of All Others Similarly Situated,)	
)	No. 04-cv-11812-MLW
Plaintiff,)	
)	
v.)	
)	
FIDELITY MANAGEMENT & RESEARCH)	
COMPANY, et al.,)	
)	
Defendants.)	
)	
)	

THE HAUGEN PLAINTIFFS' MOTION FOR LEAVE TO FILE SUR-REPLY

The *Haugen* Plaintiffs move pursuant to Local Rule 7.1 for leave to file a Proposed Sur-reply in response to the arguments made by the *Gilliam* Plaintiffs in the Memorandum in Further Support of their Motion for Appointment of Tri-lead Counsel and Liaison Counsel and Motion for Consolidation (hereinafter "Reply"). In their previous filing the *Haugen* Plaintiffs have explained the substantive and procedural differences between their lawsuit and the Class Action lawsuits brought by the plaintiffs in *Gilliam* (04-cv-11600-NG), *Bogatin Family Trust* (04-cv-11642-NG), *Awali* (04-cv-11709-MLW), *Groeschel* (04-cv-11735-GAO) and *Fallert* (04-cv-11812-MLW) (respectively, the "Class Actions" and the "Class Action Plaintiffs"), which make consolidation improper under Fed. R. Civ. P. 42(a). A sur-reply is necessary, however, in order for the *Haugen* Plaintiffs address the new arguments made by the Class Action Plaintiffs in their Reply that were not made in their opening brief.

Dated: December 20, 2004

Respectfully submitted,

SHAPIRO HABER & URMY LLP

By: /s/ Michelle H. Blauner
Michelle H. Blauner, BBO # 549049
53 State Street
Boston, MA 02109
(617) 439-3939

Lynn Lincoln Sarko (*pro hac vice*)
Michael D. Woerner (*pro hac vice*)
Gretchen F. Cappio (*pro hac vice*)
KELLER ROHRBACK L.L.P.
1201 Third Avenue, Ste. 3200
Seattle, WA 98101-3052
(206) 623-1900

Gary Gotto
Ron Kilgard
KELLER ROHRBACK P.L.C.
National Bank Plaza
3101 North Central Avenue, Ste. 900
Phoenix, AZ 85012
(602) 248-0088

Michael J. Brickman (*pro hac vice*)
James C. Bradley (*pro hac vice*)
Nina H. Fields (*pro hac vice*)
RICHARDSON, PATRICK,
WESTBROOK & BRICKMAN, LLC
174 East Bay Street
Charleston, SC 29401
(842) 727-6500

Guy M. Burns
Jonathan S. Coleman
Becky Ferrell-Anton
JOHNSON, POPE, BOKOR, RUPPEL
& BURNS, L.L.P.
100 North Tampa Street, Ste. 1800
Tampa, FL 33602
(813) 225-2500

Counsel for the Haugen Plaintiffs

Certification Pursuant to Rule 7.1

On December 15, 2004, I, Michelle H. Blauner, conferred with counsel in these matters for the purposes of attempting to resolve or narrow the issues presented by this motion, and state as follows: (1) C. Neil Gray, counsel for defendants Fidelity Management & Research Company and FMR Co., Inc., has no opposition to this motion; (2) William Shawn McDermott, Counsel for the Fidelity Funds has no opposition to this motion; (3) John S. Kiernan, counsel for the Individual Defendants in the Class Actions takes no position on this motion; (4) Nancy Gans, Counsel for the Class Action Plaintiffs, opposes this motion; and (5) Sara Davis, Counsel for the Bennett Plaintiffs, assents to this motion

/s / Michelle H. Blauner